

REGULATION

SPDOC No.: 05-11	Effective Date: June 19, 2005	Index Reference: Errors in Compensation	Regulation Number: 5.16
Issuing Bureau: Compensation	Rule Reference: Rules: 5-1 (Compensation Plan) 5-3 (Compensation Schedules)		Replaces: Reg. 5.16 (CS-6940, March 18, 2001)
Subject: CORRECTING COMPENSATION ERRORS			

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1. PURPOSE

This regulation establishes standards and guidelines for correcting errors in compensation.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

Rule 5-1 Civil Service Compensation Plan

5-1.1 Application

(a) General application. All eligible employees in the classified service receive compensation and fringe benefits in accordance with the compensation plan, except as provided in subsection (b).

- (b) **Collective bargaining agreement.** All employees in the classified service are covered by these rules, except that employees covered by an approved collective bargaining agreement differing from the compensation plan are governed by the collective bargaining agreement, where different.*

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Rule 5-3 Compensation Schedules

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5-3.3 Individual Compensation

The appointing authority shall assign the individual level of compensation for each classified employee as provided in the compensation plan. The individual level of compensation must fall within the range of rates of compensation approved by the civil service commission for the employee's classification level. If the appointing authority implements an approved salary-range subdivision, the individual level of compensation of an employee subject to the subdivision must also fall within the approved departmental range of rates for the subdivision. Any exception must be approved by the state personnel director.

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5-3.4 Operation of Compensation Schedules

An employee in the classified service cannot be paid less than the minimum nor more than the maximum authorized in the compensation plan, unless authorized by the state personnel director.

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5-3.9 Approval and Disapproval of Disbursements for the Classified Payroll

The state personnel director shall certify each payroll for the classified service. Payroll certification is based on computerized payroll system edits of payroll calculations and personnel transactions and the audit of personnel transactions for compliance with civil service rules and regulations. The director shall establish edit requirements and audit procedures. The director may delete from the payroll any item that cannot be certified under this rule and shall give notice of the action, together with the reason for the action, to the appointing authority concerned.

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3. DEFINITIONS

A. Civil Service Commission Rule Definitions

1. ***Compensation plan** means the civil service rules and regulations (including pay schedules) for administration of pay in the classified service.*
2. ***Grievance** means a complaint, authorized in rule 8-1[Grievances], filed by a classified employee regarding an action by an appointing authority.*

4. STANDARDS

A. Requirements.

1. **Authorized.** All employee compensation must be authorized by and administered in accordance with the compensation plan and any applicable collective bargaining agreement.
2. **Review, audit, and correction.** All compensation is subject to review, audit, and correction by the appointing authority and the Department of Civil Service.
3. **Report errors.** An employee is required to report all errors in the administration of the compensation plan to the employee's appointing authority or the Department of Civil Service.
4. **Correction required.** Any compensation errors, including overpayment and underpayment, shall be corrected as provided in this regulation.
5. **Withholding.** All payments to employees to correct errors are subject to withholding as required by law.
6. **Prospective recovery and repayments.** Except where retroactive recovery or payment is expressly authorized, compensation errors are corrected prospectively only, beginning the first day of the pay period in which the appointing authority or the Department of Civil Service learned of the error.
7. **Document retention.** The appointing authority must retain documentation of any overpayment, underpayment, and collection effort for 3 years.

B. Overpayments.

1. **Recovery required.** If an employee is overpaid, the appointing authority or the Department of Civil Service shall recover the amount of overpayment from the employee, as provided in this regulation.

2. **Limits of employee liability.** If an employee is overpaid, the employee is liable to repay the amount of the overpayment, as follows:
 - a. **No fraud; limit on recovery from employee.** If an employee is overpaid for reasons other than fraud or misrepresentation by the employee, the employee must repay the amount of the overpayment received during the 26 biweekly pay periods before the pay period in which the appointing authority or the Department of Civil Service learned of the overpayment.
 - b. **Fraud; no limit on recovery from employee.** If an employee is overpaid as the result of fraud or misrepresentation by the employee, the employee must repay the entire amount of the overpayment. In addition, (1) the employee may be disciplined, up to and including dismissal, and (2) the matter may be referred to the Attorney General, State Police, or local law enforcement authorities for a criminal investigation and to the Attorney General for civil action.
3. **Repayment Procedures.** An employee must repay any overpayment in one of the following ways:
 - a. **Voluntary repayment agreement.** An employee obligated to make repayments may agree in writing to a repayment schedule acceptable to the appointing authority. Repayment shall be by voluntary deduction from the employee's biweekly wages. All repayment must be collected within one calendar year after the date of the agreement.
 - b. **Involuntary payroll deduction.** If an employee obligated to make repayments does not agree to a repayment schedule acceptable to the appointing authority, the amount of the overpayment may be deducted from the employee's biweekly wages without the employee's consent, subject to the following limitations:
 - (1) The employee must be given advance written notice of the deductions.
 - (2) The biweekly deduction cannot exceed 15 percent of gross wages earned in the pay period in which the deduction is made.
 - (3) The deduction is made after all deductions expressly permitted or required by law or a collective bargaining

agreement and before any net amount of the employee's wages is paid or electronically deposited.

- (4) The deduction does not reduce the employee's regularly scheduled gross wages otherwise due the employee below the minimum wage requirement in federal law.
- 4. **Waiver.** If it is not cost effective to recover overcompensation, the Department of Civil Service may authorize the appointing authority to waive recovery.
- 5. **Employee left state service.** If an overcompensated employee has left the classified service, the appointing authority should take any steps practicable to recover the overcompensation.

C. Underpayments.

- 1. **Payment required.** If an employee is underpaid, the appointing authority must pay the employee the amount underpaid.
- 2. **Limit on retroactivity.** An employee is entitled to retroactive payment of any underpayment for up to 26 biweekly pay periods before the date the appointing authority or the Department of Civil Service learned of the underpayment. Retroactive payment of undercompensation beyond 26 biweekly pay periods is not permitted.
- 3. **Payment schedule.** The employee shall be paid the total authorized amount of the underpayment in a single payment within 4 pay periods after the underpayment was discovered. The employee and the appointing authority may agree in writing to a different payment schedule.

D. Employee Complaints.

- 1. Employee complaints regarding compensation or involuntary deductions ordered by an appointing authority must be filed as authorized in rule 8-1 [Grievances] and regulation 8.01 [Grievance and Grievance Appeal Procedures], unless the following rules or regulations require filing a technical complaint:
 - a. **Classification.** A complaint regarding classification must be filed in the technical complaint process, as authorized in rule 8-3 [Technical Complaints] and regulation 8.02 [Technical Classification and Qualification Complaints].
 - b. **Working out of class.** A complaint regarding working out of class must be filed in the technical working-out-of-class process, as authorized in rule 4-5 [Working out of Class] and regulation 4.08 [Working out of Class].

2. Employee complaints regarding involuntary deductions ordered by the Department of Civil Service must be filed under the procedures authorized in Standard 4(B)(3), regulation 5.18 [Complaints about Benefits].

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-335-7862; or by e-mail to MDCS-Compensation@michigan.gov.

NOTE: Regulations are issued by the State Personnel Director, under authority granted in the *State of Michigan Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.